

A new Times book: The Papers Papers...

[Note that NYT never showed any curiosity about the process of the other papers getting the papers...i.e., no attempt to interview me...e.g. on my perspective about my relation with Sheehan,

Times spent \$320,000: Goodale: even in 1971 dollars, one hell of a bargain. Bickel submitted bill only \$40,000: embarrassing.

AMR: I had to warn Punch: we didn't know how our readers might react to our publishing of the papers; we'd go to court, we might be in jail...but as an editor, we had to publish the papers...

Chief Warrant Officer: was in Nam during Tet...

Think we should hold our officials

Susan Swain: how do you think the publication of the PP contributed to the Communist victory? Caller: it demoralized the public...

AMR: that did not come about from the publication of the PP or the reporting on the war, it came from the public's feeling that the war was lost and it was going on too long...

and it was printed by a person (himself) who was not against the war, I was probably wrong about that...

Caller: I had read everything on VN before I went, and I read the PP and there was absolutely nothing new in them

[DEFINE WHAT I SAW A 'NEW']

AMR: This told us how the decisions were made, when the officials were telling the truth and when they were not, when the military told the President that we were losing the war [?] and this was not conveyed the American people...

amr: UNFORTunately many of the people who should have read the PP did not for years later, because the court case absorbed all the attention

[still!]

AMR: Lord Day and Lord was the family lawyers of NYT, Brownell was now the head of it...we had a bitter fight that Monday night

Goodale: The first thing I said to Brownell on the phone was, "Herb, you looked great at the wedding." But I've learned now that Mitchell had been on the phone to him [to NYT's lawyer!] just before, and his reason he gave for dropping the case was not his real reason...

Herb should not have been on the case, and we should not have permitted him to...

[Note the incestuous relationships: McNamara/Reston, ...Brownell/Mitchell (AMR: Lord Day and Lord had become an instrument of the Republican Party)]

AMR: we've learned since that the military situation was even less favorable than the authors of the PP thought, at the time they were writing...

[NOTE LACK OF CURIOSITY IN NYT ABOUT THE PP OF THE NIXON ERA, OR THE NIXON STRATEGY...I FAILED TO CONVINCE THEM, TO INTEREST THEM IN IT (SEE EVEN MY EXCHANGE WITH hERSH!)]...OR EVER SINCE. THEY FAILED TO APPLY LESSONS OF PP TO INTERPRETATION OF NIXON POLICY.]

Senator Mike Gravel (unrecognizable, whitehaired with white moustache). I was in the middle of a filibuster against the draft, which was successful several months later...

I got a call from an unidentified person--who I later learned was Daniel Ellsberg--who asked if I wanted the PP to use in my filibuster. He was the person everyone was looking for. Later he called to ask if we had gotten them; we hadn't. We talked about how to transfer a copy.

The idea was to get them into the Congressional Record (and thus make moot the issue of releasing them in the papers, before the courts; is it right that I didn't contact him before the NYT was enjoined? And that I did while I was underground? Wouldn't I have told him my name? How did Ben get an extra copy, to transfer? Did I set that up, or did -----? Was BB just helping as a citizen, then? That could have been seen as a violation of the court injunction against the Wash Post: certainly, if he had given them to another newspaper; but I suppose not, giving them to a Congressman! Still...]

I eventually met with Ben Bagdikian, I've kept secret his involvement, we worked out out to transfer them...I instructed him to park his car in front of the Mayflower Hotel at a certain time, I would drive up, we would transfer the papers from the trunk of

his car to the trunk of mine, right under the marquee of the hotel...that's how we did it...

I looked them over to see if there were any military secrets in them

(My background had been in Counterintelligence (!) I knew how to do these things...Ben wanted us to meet in some dark corner in rural Washington...I said, No, just the opposite...)

G: We excised some names of people who might be in the CIA, or the State Department (?)

G: private speech of an American citizen must be subject to some controls, shouting Fire in a crowded theater...but the political opinions of Americans on political decisions must be absolute, must not be interfered with by government at all...

G: We lost the court case (!)...but it made no sense for Nixon Admin to pursue an indictment, which they could have done [there was a grand jury in Boston looking at me...] when they were up to their eyeballs in Watergate...so issue became moot by passage of time.

Susan : crux of government position on papers?

Mardian: That the government had classified these documents, Top Secret/Sensitive, and that possession of unauthorized copies of these documents was a violation of law.

Assistant Attorney General 1970-72.

Does it look different to you after 25 years?

The court case was a rush to judgment...If the government had had more time to assemble its case, the outcome might have been different...that was the view of the 3 dissenting judges...the judges and gov lawyers didn't have time to meet the standards for prior restraint....

gov maintained: irreparable harm.

Three judges, Black, Douglas and Brennan, felt that the First Amendment was an absolute prohibition against the government getting prior restraint in any circumstances...the judgment was 6 to 3 against that opinion.

Near vs. Minnesota: SC had said that in appropriate circumstances (not defined) gov could get prior restraint. Also in ...

[What would have been my platform, my fame, my authority if there had been no injunction; or no criminal prosecution of me (Nixon/Ehrlichman initial position: RM confirms this was N's initial reaction, "Not our problem." However, State Department, DOD, and NSA could not accept that view; I don't know if it was HAK's opinion alone that persuaded N to change his mind...but except for [some] people in the White House (!) all the government agencies involved felt there must be

RM: DE clearly violated a statute...Not one of the justices involved would agree with Mr. Ellsberg's statement (about OSA and treason...

Mr. Ellsberg should have been convicted of ...sedition...and the reason he wasn't convicted was because of what has come to be called the Kissinger tapes [AND MARDIAN'S ROLE IN MOVING THE RECORDS OF THE TAPES FROM THE FBI TO THE WHITE HOUSE!]

[Get comment on "sedition"--do we have such a law, in light of First Amendment?! I was commenting on whether I was guilty of "treason," not so much whether I had violated any law at all. Well, no, I did imply that "it was not a crime" for me to have done what I did; that was true

But for Kissinger tapes, RM believes he would have successfully prosecuted DE: "No question about it, no question about it."

[Well, it's in between. On the face of the laws, I could be said to have violated them--depending on definition of nat sec. But no one had ever have been prosecuted for such apparent violation

Caller: Mr. Ellsberg and his cohorts are traitors, and are still advocating subversion of the government...My husband was in communications intelligence, and he would have guarded those secrets with his life...

We were astounded that these arrogant young men had.. (put out government secrets) and they are responsible for the loss of American lives, for the disillusionment of the American people...

RM: It's true that 90% of the information in the PP, by itself, could not be classified Top Secret, but "the law [sic] is very clear, that if one page in a document is classifiable TS, the whole document is...

[THERE IS NO SUCH "LAW"; THERE IS AN AGENCY/EXECUTIVE BRANCH REGULATION; MY LOYALTY WAS DUE TO CONSTITUTION AND LAWS, NOT TO

THESE REGULATIONS...]

cALLER: Has there ever been any determination of how many lives were lost as a result of the publication of the PP...and I am of the opinion that the Oklahoma City bombing was a direct result of that period in our history...(disillusionment of the American people)

[Such a question reflects correct view that information should be kept secret from public only if its publication would cost American lives...plus the incorrect assumption that this is the criterion that government officials act on, so they assume that loss of American life must actually have resulted from the actual publication...

In reality, all the American lives that were lost were directly traceable to the improper, abusive concealment of information and government lies: gov was withholding information that would save American lives by, let us say, leading to public support for withdrawal for the war...

RM: the PP weakened the government's position in carrying out its policies on the war...{yes!]

[NYT: What is their opinion on: Did I, as a government official former, consultant, do what I should have done?

To Rosenthal: should I assume that he did not respect me or my action at the time...that he felt hostile, and that this showed...

MR> as a result of what (i) did, the war was extended, because we lost the support of three nations that were assisting us in trying to end the war [[what nations? what role? what negotiations-- what prospects of ending war? what evidence of actual effects?]

Cspan:

I was ~~tried~~ in the WG matter, along with Bob Haldeman, E, M...and I was convicted by the jury in Washington...however the Circuit Court of Appeals unanimously reversed my conviction and in effect said I sholdn't have been tried with them.

Caller: Navy radioman, in VN for 32 months (probably Comint): if I had done what they did (DE and Miss Hanoi) I would be sitting in jail...I still don't understand why the government didn't try to put those people in jail...I don't know why the civilians in the

Pentagon are subject to different standards from the military

(Many in audience miss difference between SI/comint, and between UCMJ and Const.)

Caller: To hear

I thank God for DE and for the NYT for having th courage to tell us the truth...if they had been published much earlier, the public would have turned against the war much sooner and I would not have had to live with 25 years of my husband's crazy behavior as an Agent Orange veteran and a PTSS veteran

Caller: at the time, I was foursquare for the war and was screaming for the government's head, but now...do you really justify the breakin to DE's psychiatrist office...

RM: that was clearly a reprehensible act...I would never have supported it...I was told at the time that the reason they set up the plumbers to stop leaks from the White House (sic) was because I wasn't doing my job at Internal Security.

RM: the lifeblood of diplomacy is secrecy...Publication of PP prolonged the war, didn't shorten it...

Caller: without people like DE--I don't necessarily agree with what he did--how do we hold accountable government officials who are committing crimes and withholding information (lying...)

RM: PP didn't reveal any crimes...unless you take position that US intervention in Vietnam was a crime...[Well...]